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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/331,705  | 10/25/2004  | Uwe Esch             | 2698/MEINKE/        | 1979             |
| 26304   | 7590        | 06/14/2005           | EXAMINER            |                  |
| KATTEN MUCHIN ROSENMAN LLP<br>575 MADISON AVENUE<br>NEW YORK, NY 10022-2585 |             |                      | LESLIE, MICHAEL S   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3745                |                  |

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 09/331,705      | ESCH ET AL.  |
|                              | Examiner        | Art Unit     |
|                              | Michael Leslie  | 3745         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 2-5 is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) 1,2 and 5 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 June 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \*    c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/18/99</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "D" (Fig. 1), "P21" and "P22" (Fig. 2). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: In the Abstract, last line, "Associated drawing to be published: Fig. 1" should be deleted.

Appropriate correction is required.

### ***Claim Objections***

Claims 1, 2, and 5 are objected to because of the following informalities: Claim 1, Line 4, "and which" should be --which--; Claim 2, Line 9, "a drive" should be --each drive--; Claim 5, Line 2, "drive group" should be --drive circuit group--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Appel.

Appel discloses a hydraulic circuit having a motor drive (Not shown) acting on at least two closed drive circuits (3, 4) each having a hydraulic pump (5, 6) and a hydraulic motor (7, 8) operating on a common output drive, connecting lines are arranged only between the pump and motor of the respective drive circuits, and the respective drive circuits each having its own control valve (15, 16).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoyagi et al (4561250) in view of Morrow et al (GB 2097752).

Aoyagi et al discloses a hydraulic circuit having at least two closed drive circuits, driven by motor drives (1a, 1b), each having a hydraulic pump (3a, 3b) and a hydraulic motor (7a, 7b)

operating on a common output drive (11), connecting lines (5a, 6a; 5b, 6b) are arranged only between the pump and motor of the respective drive circuits, and the respective drive circuits each having its own control valve (14a, 14b). Aoyagi et al does not teach the use of a motor drive acting on each drive circuit.

Morrow et al teaches a hydraulic circuit having a motor drive acting on at least two closed drive circuits having a pump (52) and motor (42) connected by connecting lines, wherein the motors operate on a common output (Fig. 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the circuit of Aoyagi et al by having a motor drive acting on the at least two closed drive circuits as taught by Morrow et al for the purpose of driving the pumps of the closed drive circuits.

***Allowable Subject Matter***

Claims 2-5 are allowed.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 4126994, 3916767, 3526288, and 3279172 each disclose a hydraulic circuit having a motor drive acting on at least two closed drive circuits.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
June 7, 2005

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6/11/05